

Remarks

Claims 2, 3, 5 and 8 are amended herein. Claims 1-9 remain pending in the Application.

Specification Objections

The Abstract is objected to because it contains legal phraseology. Applicant has amended the Abstract, therefore the objection with respect to the Abstract is overcome.

The disclosure is objected to because of informalities. Applicant has corrected the list of informalities, therefore the objection with respect to the list of informalities is overcome.

Claim Objections

In the Office Action, Claims 2 and 3 are objected to for a dependency informality. Applicant has corrected the informality of Claims 2 and 3. Therefore, the objection with respect to Claims 2 and 3 is overcome.

Rejection under 35 USC 112

Claims 2, 5 and 8

In the Office Action, the Examiner rejected Claims 2, 5 and 8 under 35 USC 112, second paragraph, as being indefinite. Applicant has amended Claims 2, 5 and 8, therefore the rejection with respect to Claims 2, 5 and 8 is overcome.

Rejection under 103(a)

Claims 1, 4 and 7

In the Office Action, the Examiner rejected Claims 1, 4 and 7 under 35 USC 103(a) as being unpatentable over Dempsey in view of Cramer. Applicant

has reviewed the cited reference and respectfully submits that the present invention is not rendered obvious in view of prior art for the following rationale.

Applicant respectfully states that Claims 1, 4, and 7 include the feature “identifying instances of components executing on the affected computing element”

The Examiner has stated, Dempsey does not discuss a detection method. Moreover, the Examiner states that Dempsey does not address the identification of application components or the initialization thereof. Applicant agrees with the Examiner and also does not understand Dempsey to address the identification of components executing on the affected computing element as stated in the feature of Claims 1, 4, and 7.

However, Applicant respectfully disagrees that Cramer teaches or renders obvious the features of Claims 1, 4, and 7 or overcomes the shortcomings of Dempsey. As the Examiner has stated, Cramer does not consider running redundant processors in a low power mode. Applicant agrees with the Examiner and also does not understand Cramer to teach any cold spare computing elements (e.g., low power mode elements) or utilization thereof. Applicant instead understands Cramer to utilize the impaired element to declare its impairment and request assistance from a second operational element. That is, Applicant understands the second element of Cramer to be a functioning device not a second backup device waiting as a cold spare. Therefore, Applicant does not understand Cramer to teach or address the initialization of application components, since the components are already operational and initialized.

Therefore, Applicant respectfully submits that Cramer does not overcome the shortcomings of Dempsey with respect to the feature of the present claimed invention as recited in Claims 1, 4, and 7, and as such, Claims 1, 4, and 7 are in condition for allowance. Accordingly, Applicant also respectfully submits that

Dempsey in view of Cramer does not teach nor render obvious the present claimed invention as recited in Claims 2-3 which are dependent on an allowable Independent Claim 1, Claims 5-6 which are dependent on an allowable Independent Claim 4 and Claims 8-9 which are dependent on an allowable Independent Claim 7 and that Claims 2-3, 5-7 and 8-9 recite further features of the present claimed invention. Therefore, Applicant respectfully states that Claims 2-3, 5-7 and 8-9 are allowable as pending from allowable base Claims.

Claims 2, 5 and 8

In the Office Action, the Examiner rejected Claims 2, 5 and 8 under 35 USC 103(a) as being unpatentable over Dempsey in view of Cramer and further in view of Lanus. Applicant has reviewed the cited reference and respectfully submits that the present invention is not rendered obvious over Dempsey in view of Cramer and further in view of Lanus for the following rationale.

Applicant respectfully states that Claim 2 is dependent from an allowable Independent Claim 1. Therefore, Claim 2 which depends from an allowable Independent Claim 1 is also in condition for allowance as being dependent on an allowable base Claim and reciting further features of the present claimed invention.

Applicant respectfully states that Claim 5 is dependent from an allowable Independent Claim 4. Therefore, Claim 5 which depends from an allowable Independent Claim 4 is also in condition for allowance as being dependent on an allowable base Claim and reciting further features of the present claimed invention.

Applicant respectfully states that Claim 8 is dependent from an allowable Independent Claim 7. Therefore, Claim 8 which depends from an allowable Independent Claim 7 is also in condition for allowance as being dependent on an

allowable base Claim and reciting further features of the present claimed invention.

Allowable Subject Matter

Applicant wishes to thank the Examiner for the allowable subject matter of Claims 3, 6 and 9 if rewritten in Independent form to include all of the limitations of the base Claim and any intervening Claims.


Conclusion

In light of the above amendments and remarks, Applicant respectfully requests allowance of Claims 1-9.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present application.

Respectfully submitted,
Wagner, Murabito & Hao LLP

Date: 11/30/04



John P. Wagner, Jr.
Reg. No. 35,398

Two North Market Street
Third Floor
San Jose, California 95113
(408) 938-9060